

GALVIN & PALMER

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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

-----X 07 CV 9535 (RWS)
TIMOTHY GUSLER,

Plaintiff,

-against-

MATTHEW FISCHER, SALVATORE GUERRERI,
PETER J. LISTRO ASSOCIATES, LTD., UNISAR, INC.,
AVITA CORPORATION, TARGET CORPORATION,
TOYS "R US, INC., AMAZON.COM, INC.,
WAL-MART STORES, INC., and CHELSEA &
SCOTT, LTD. d/b/a ONESTEP AHEAD,

**AFFIRMATION IN TO
SUPPORT OF MOTION
DISMISS**

Defendants.

-----X

I, Sheldon Palmer affirm that:

1. I am an attorney and member of Galvin & Palmer, one of the attorneys representing defendants Peter J. Listro Associates, Ltd., Unisar, Inc., Target Corporation, Toys "R Us, Inc., Amazon.com, Inc., Wal-Mart Stores, Inc., and Chelsea & Scott, Ltd. I make this affirmation upon my personal knowledge.

2. Attached as Exhibit 1 is a true copy of part of Exhibit A, attached to the Complaint.

3. Attached as Exhibit 2 is a true copy of on-line advertisements of The Product (as defined in the attached brief).

4. Attached as Exhibit 3 is a side-by-side comparison of the embodiment of plaintiff's drawing and The Product.

I declare under penalty of perjury that
the foregoing is true and correct.

Executed on: January 3, 2008

/Sheldon Palmer/

Sheldon Palmer (SP-9703)